

Remarks

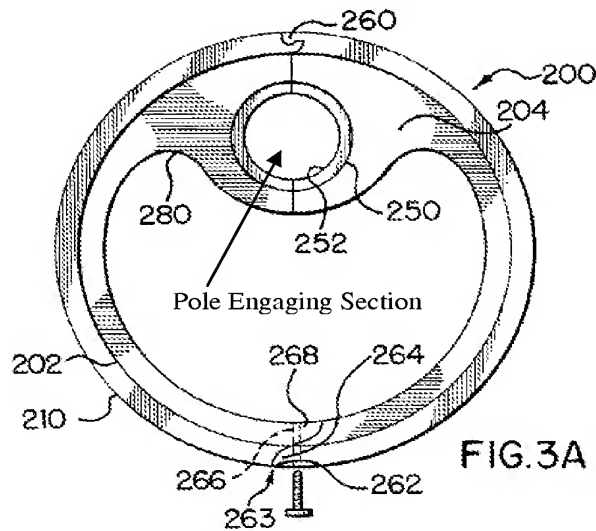
Claims 2-7, 9, 11-16, 18, 21 and 22 are pending in the present application. Claims 1, 8, 10, and 17 have been canceled. New claims 21 and 22 have been added. Claims 2-7, 9, 11-16, and 18 have been amended herein, for clarification. Support for new claim 21 is provided in the present application, for example, in canceled claims 1 and 8. Support for new claim 22 is provided in the present application, for example, in canceled claims 10 and 17. No new matter has been entered.

Claims 1 and 10 were rejected under 35 U.S.C. 102(e) as being anticipated by Lizell (US 6,419,511). Claim 1 is further rejected under 35 U.S.C. 103(a) as being unpatentable over Holland (US 5,020,103) in view of Lizell. Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartley et al. (US 3,752,927) in view of Lizell. Claims 1-6, 10-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scolari (US 4,489,306) in view of Lizell. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scolari in view of Lizell and further in view of Bartley et al. These rejections are respectfully traversed.

Independent claims 21 and 22 are both directed to modular communication assemblies comprising, *inter alia*, a plurality of modular components, wherein each of the modular components comprise at least one endwall comprising a plurality of apertures. The modular components are configured to be interchangeably secured to one another in a plurality of vertical arrangements by a plurality of fasteners extending between respective apertures in adjacent endwalls. The claims also recite that the modular components are configured to produce at least two different functions. None of the cited references, singularly or in combination, teach all of the above claim elements.

Pursuant to MPEP 2131, a claim is anticipated under §102(b) "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Pursuant to MPEP 2143, three basic criteria must be met to establish a prima facie case of obviousness under §103(a). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP 2143. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Lizell teaches modular sleeves having a circular section configured to engage a cylindrical post as shown in Fig 3A below. Lizell fails to teach an end wall comprising a plurality of apertures configured to secure adjacent endwalls by fasteners extending between respective apertures in adjacent endwalls. Lizell has two openings: one for coupling to the post, and one for allowing power cords to extend through the center of the sleeve. Lizell fails to teach apertures configured such that fasteners may be coupled to adjacent sleeves.



Moreover, Lizell provides no teaching or suggestion that adjacent sleeves are coupled to one another via any mechanism. As a result, Lizell fails to teach modular components configured to be interchangeably secured to one another in a vertical arrangement by a plurality of fasteners extending between respective apertures in adjacent endwalls. As a result, Lizell does not anticipate claims 21 and 22 and all claims dependent thereon under §102(b).

Holland does not cure the above noted deficiencies of Lizell. Referring to Figs. 3A through 3D of Holland, Holland teaches a phone unit, which is side mounted or horizontally mounted onto a steel post at different locations of the side of the steel post 25. In contrast to an embodiment of the present invention as shown in Fig. 1, modular sections 22a, 22b, 22c, and 22d may be vertically stacked onto one another through the adjacent endwalls (as shown in the embodiment of Fig. 6). Holland's *side mounting* arrangement does not teach or suggest a plurality of modular components configured to be interchangeably secured to one another in a vertical arrangement by a plurality of fasteners extending between respective apertures in adjacent endwalls. As the examiner concedes, Holland also fails to teach modular components configured to perform different functions. As a result, Holland fails to teach or suggest all elements of the claimed invention.

Moreover, one would not be led to combine the teachings of Holland and Lizell. One cannot base obviousness upon what a person skilled in the art might try or might find obvious but rather must consider what the prior art would have led a person skilled in the art to do." *In re Tomlinson*, 150 USPQ 623 (CCPA 1966). Holland is a durable public telephone mounting apparatus configured to discourage vandalism and theft, (col. 2, lines 3-5) and Lizell is a lightweight apparatus for home or office use. The examiner combines Holland and Lizell by stating that one of skill in the art would have incorporated the Lizell configuration into the Holland device to save cost on the manufacture of the device, and ease the assembly of the device. However, Holland provides no teaching or suggestion of the desirability of easier assembly as taught by Lizell. In fact, Holland is specially manufactured with a durable steel post to minimize theft and vandalism in public setting. Combining the lightweight and less durable Lizell configuration with the Holland configuration would render Holland inoperable for its intended purpose i.e. preventing vandalism and theft. Furthermore, Holland is directed to telephone structures and provides no teaching or suggestion that performing additional functions would be desirable. Even if Holland stated these additional functions would be desirable, one of skill in the art would not be led to cure the deficiencies of Holland's public telephone mounting device by incorporating the teachings of Lizell's modular support system, which is directed to home or office use.

Bartley, either singularly or in combination with other cited references, also fails to teach all elements of claims 21 and 22. Referring to Figs. 1 and 9 of Bartley, Bartley teaches a telephone side mounted or horizontally mounted to a steel post. Like Holland, Bartley's *side mounting* arrangement does not teach or suggest a plurality of modular components configured to be interchangeably secured to one another in a vertical arrangement by a plurality of fasteners extending between respective apertures in adjacent endwalls. Further

like Holland, Bartley also fails to teach modular components configured to perform different functions.

One of skill in the art would not be led to combine Bartley with Lizell to teach or suggest all elements of the claimed invention. Like Holland, Bartley's "telephone mounting is designed to provide a supporting structure for public telephones that is more vandal resistant than existing telephone mountings and at the same time affords more protection for the telephone than existing telephone mountings." (col. 1, lines 25-30.) Consequently, combining the lightweight and less durable Lizell apparatus with the Bartley configuration would render Bartley inoperable for its intended purpose i.e. preventing vandalism. Furthermore, Bartley is directed to telephone structures and provides no teaching or suggestion that performing additional functions would be desirable. Even if Bartley stated these additional functions would be desirable, one of skill in the art would not be led to cure the deficiencies of Bartley public telephone mounting device by incorporating the teachings of Lizell's modular support system.

Scolari, either singularly or in combination with other cited references, also fails to teach all elements of claims 21 and 22. Scolari does not teach end walls having a plurality of apertures, and does not teach fasteners asserted between apertures. Furthermore, Scolari does not teach fasteners used to combine the fasteners at the end walls. The examiner asserted detents 46 as teaching fasteners; however, detents 46 are not fasteners. Detents merely keep the telescoping boxes in an upright position, and do not secure the telescoping boxes to one another. Furthermore, the Scolari device performs one function i.e. spelling out the word "HELP. It does not teach a plurality of modular components performing different functions. Accordingly, all of the cited references, singularly or in combination, fail to teach or suggest

all elements of the claimed invention, thus a prima facie case of obviousness has not been established under 103(a).

The Applicants respectfully submit that the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully requested.

Respectfully submitted,

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